

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH NELUMS,

Plaintiff,

v.

No. 2:22-cv-80 CG/KRS

SHIP SMART LLC (an Ohio Company) d/b/a JETPACK,
and VITALINA LLC d/b/a TRUE KETO,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court *sua sponte*. Plaintiff initiated this action on February 3, 2022, and filed an amended complaint on February 15, 2022. (Docs. 1 and 4). Defendant Ship Smart LLC filed an answer to the amended complaint on April 25, 2022. (Doc. 10). The docket reflects that on February 15, 2022, a summons was issued as to Defendant Vitalina LLC, but no answer or other responsive pleading has been filed by that Defendant. Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff was required to serve Defendants within ninety days of filing the complaint. In addition, Rule 41(b) of the Federal Rules of Civil Procedure authorizes the Court to dismiss an action *sua sponte* for failure to prosecute. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003); *see also* D.N.M. LR-Civ. 41.1 (“A civil action may be dismissed if, for a period of ninety (90) calendar days, no steps are taken to move the case forward.”). More than ninety days have passed since Plaintiff took any step to move this case forward as to Defendant Vitalina LLC.

IT IS THEREFORE ORDERED that **on or before June 10, 2022**, Plaintiff must provide the Court with a written explanation showing good cause why this case should not be dismissed as to Defendant Vitalina LLC for failure to prosecute.

A handwritten signature in black ink, reading "Kevin Sweazea". The signature is written in a cursive, flowing style. The first name "Kevin" is written in a smaller, more compact script, while "Sweazea" is written in a larger, more expansive script with a prominent loop at the end.

KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE